

ORDINANCE NO. 03- \_\_\_\_

AN ORDINANCE OF LEON COUNTY AMENDING ARTICLE 5  
OF CHAPTER 10 OF LEON COUNTY CODE OF ORDINANCES  
PROVIDING FOR THE TERMINATION OF VESTED RIGHTS  
PREVIOUSLY GRANTED AND TERMINATION OF  
PRESUMPTIVE VESTING OF EXEMPT SUBDIVISIONS;  
PROHIBITING CONVERSIONS OF VESTED RIGHTS;  
PROVIDING FOR SUMMARY EXTENSIONS OF VESTED  
RIGHTS BY THE GROWTH MANAGEMENT DIRECTOR;  
PROVIDING FOR EXTENSIONS OF VESTED RIGHTS AFTER  
HEARING; PROVIDING FOR CONFLICTS OF SEVERABILITY  
AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEON  
COUNTY, FLORIDA, that:

**Section 1.** Definitions.

Sec. 10-96 of Chapter 10 of the County Code or Ordinances shall be amended as follows:

As stated in section 10-1, the definitions in section 10-1 apply to this article. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Building permit* shall not include foundation permit.

*Development* shall mean the particular development activity authorized by the unexpired development order issued for a specific project.

*Director* shall mean the ~~Tallahassee-Leon County~~ Community Development Director ~~planning~~ or his designated representative.

*Final development orders* shall mean for purposes of a determination of vested rights in a previously-approved development, the following unexpired development orders:

- (1) ~~Exempt subdivision.~~
- (2) ~~Minor subdivision.~~
- (3) Preliminary subdivision plat approval.
- (4) Final subdivision plat approval.

- (5) Final site plan approval (pursuant to article VIII).
- (6) Approval of a PUD concept plan.
- (7) Approval of a PUD final development plan.
- (8) Building permit.
- (9) Any other development order which approved the development of land for a particular use or uses at a specified intensity of use or uses and which allowed development activity on the land for which the development order was issued.

*Lot of record* shall mean a designated parcel, tract or area of land established by plat, metes and bounds description, or otherwise permitted by law, to be used, developed or built upon as a unit and which existed in the records of the county property appraiser upon the effective date of the county's subdivision regulations, January 1, 1984.

**Section 2.** Administrative procedures.

Section 10-98. Vested categories.

The following categories shall be presumptively vested for the purposes of consistency with the comprehensive plan and concurrency as specified in the comprehensive plan and shall not be required to file an application to preserve their vested rights status:

- (1) All lots within a subdivision recorded as of July 16, 1990, or lots in approved unrecorded subdivisions for which streets, stormwater management facilities, utilities and other infrastructure required for the development have been completed as of July 16, 1990. The planning community development department shall maintain a listing of such exempt subdivisions.
- (2) All active and valid building permits issued prior to July 17, 1990. All technically complete building permit applications received by the growth and environmental management and permitting department on or before July 2, 1990, and subsequently issued, shall be vested under the provisions of the comprehensive plan, regardless of the date of issue.
- (3) Any structure on which construction has been completed and a certificate of occupancy issued if a certificate of occupancy was required at the time of permitting.

**Section 3.** Termination of Vested Rights and Prohibition of Conversions of Vested Rights.

The Code of Laws of Leon County, Florida, is hereby amended by adding a section to be numbered Sec. 10-100, which section reads as follows:

1           Sec. 10-100. Termination of Vested Rights and Prohibition of Conversions of  
2           Vested Rights.

3           (a) Prohibition of Conversions of Vested Rights: As of November 1, 2003, no  
4           vested rights shall be converted from a use approved in a vested rights  
5           certificate, subdivision plat, or other final development order to another use  
6           not addressed in the vested right certificate, subdivision plat or other final  
7           development order. If the vested right certificate, subdivision plat or other  
8           final development order is silent on the approved sue, the use, including the  
9           density and intensity of the use, shall be determined by the Director based  
10           upon the County Code in effect when the vested rights were granted, taking  
11           into consideration the uses on surrounding properties in order to insure  
12           compatibility with the surrounding area.

13           (b) Termination of Vested Rights

14           (1) Any vested right certificate granted by the County under this Article  
15           shall expire on January 1, 2004, unless extended as provided in  
16           paragraph (4) below; or unless the owner of a vested parcel, or the  
17           owner's agent, has received a final development order or has  
18           submitted a valid application for a development order on or before  
19           January 1, 2004, in which case the vesting certificate shall expire on  
20           April 1, 2004, unless construction has commenced and is continuing  
21           in good faith.

22           (2) If a decision on a final development order received under Sec. 10-96  
23           paragraph (5) herein is challenged under the procedures set forth in  
24           Sec. 10-114 in Florida Statutes, the termination of the vesting  
25           certificate shall be tolled until six months after the resolution of all  
26           challenges.

27           (3) The termination provision in this paragraph shall not apply to any  
28           vesting certificate which is protected by a court order, court-approved  
29           settlement agreement, or a settlement agreement approved by a  
30           Division of Administrative Hearings hearing officer.

31           (4) Extension of exemption or vested rights:

32           (a) Summary extension by Director:

33                   1. Any property owner of vested property in an approved  
34                   nonresidential subdivision with all infrastructure in  
35                   place for each lot, including roads, water, sanitary  
36                   sewer, stormwater management facilities (when  
37                   required as part of the subdivision approval), gas, and  
38                   any other required infrastructure, may request an  
39                   extension of an exemption on vested rights prior to  
40                   January 1, 2004.

41                   2. The request shall include a sworn affidavit  
42                   documenting that all infrastructure necessary to serve  
43                   each lot within the nonresidential subdivision is in  
44                   place, and shall be submitted to the Director.

45                   3. The Director shall review the request, and verify that

1 the required infrastructure is in place prior to making  
2 a decision. The Director may request additional  
3 documentation from the applicant, if he/she feels it  
4 necessary' and may review City or Leon County  
5 records or files related to the application. The  
6 Director's decisions on the request may be to approve,  
7 deny, or approve with conditions; and shall be  
8 reduced to writing. If the Director determines that all  
9 infrastructure necessary to serve each lot within the  
10 nonresidential subdivision is in place, the request for  
11 an extension of vested rights shall be approved. The  
12 Director shall set an expiration date for the summary  
13 extension of vested rights to be no more than two (2)  
14 years from the date of the decision.

15 3. A denial by the Director shall not foreclose the  
16 applicant from seeking an exemption under Section  
17 10-111 herein, so long as the application is submitted  
18 within ten (10) days after the Director's decision is  
19 rendered or before January 1, 2004, whichever is later.

20 4. The Director's decision may be appealed by petition  
21 for writ of certiorari to the Leon County Circuit Court  
22 within 30 days after the Director renders a decision on  
23 the request. The record to be reviewed shall consist of  
24 the request from the applicant, with all supporting  
25 documentation; any other documents relied upon by  
26 the Director in reviewing the application; and the  
27 Director's written decision.

28 (b) Extensions after hearing by hearing officer:

29 1. Any property owner of vested property may request an  
30 extension of an exemption or vested rights prior to  
31 January 1, 2004. The request shall meet the  
32 requirements of Sec. 10-111 herein, and shall be filed  
33 with the Community Development Department.

34 2. The request file under this paragraph shall be referred  
35 to a hearing officer for a hearing. The hearing officer  
36 shall be selected pursuant tot he guidelines set forth in  
37 Sec. 10-115.

38 3. The property owner proceeding under this paragraph  
39 may request that a formal quasi-judicial hearing be  
40 conducted. The parties to the hearing shall be the  
41 County and the owner requesting the extension. The  
42 parties shall have the right to call witnesses, present  
43 sworn testimony, cross examine witnesses, and be  
44 represented by counsel.

45 4. If a formal quasi-judicial hearing under paragraph (b)

3. above is not requested within 10 days after notice is served on the property owner that a hearing has been scheduled, the right to a formal quasi-judicial hearing is waived; and the hearing shall be conducted under procedures established by the hearing officer.

5. In determining whether an exemption or vested rights should be extended, the hearing officer shall consider the evidence presented by the parties as to whether development has occurred on the property since 1990; whether the development and/or property is substantially developed; and whether the development is continuing in good faith. The hearing officer's decision shall be in writing, and shall include a termination date for the extending vested rights or exemption. The termination date shall be based on the evidence presented by the parties.

6. The hearing officer's decision shall be final, with appeal by petition for writ of certiorari to the Leon County Circuit Court within 30 days after the hearing officer rules on the request.

(c) Waiver of right to request extension: If a request for an extension under paragraphs (a) or (b) above is not submitted to the Community Development Department prior to January 1, 2004, the right to request an extension is waived and the exemption of vested rights shall be terminated as provided herein.

#### **Section 4.** Notice.

Notice of the termination of exemptions and vested rights as provided herein shall be mailed by regular U.S. Mail to all current owners of undeveloped property in exempt subdivisions or undeveloped property with vested rights certificates granted under the vested rights review ordinance. The notices shall be mailed on or before August 1, 2003 to owners of the property as reflected in the Leon County Property Appraiser's records, at the address provided in those records. In addition, notices shall be published in a newspaper of general circulation, under the guidelines in Section 166.041(3)(c)2.b., Fla. Stat. (2001), except that a map shall not be required.

#### **Section 5.** Conflict With Other Ordinances and Codes

All ordinances or parts of ordinances in the Code of Laws of Leon County, Florida, in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

#### **Section 6.** Severability.

If any provision or portion of this ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed as separate, distinct, and independent provisions and such holdings shall not affect the validity of the remaining portions of the ordinance.

**Section 7.** Effective Date.

This ordinance shall become effective upon becoming law.

DULY PASSED AND ADOPTED BY the Board of County Commissioners of Leon County,  
Florida, this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

LEON COUNTY, FLORIDA

BY: \_\_\_\_\_  
TONY GRIPPA, CHAIRMAN  
BOARD OF COUNTY COMMISSIONERS

ATTESTED BY:  
BOB INZER, CLERK OF THE COURT

BY: \_\_\_\_\_

APPROVED AS TO FORM:  
COUNTY ATTORNEY'S OFFICE  
LEON COUNTY, FLORIDA

BY: \_\_\_\_\_  
HERBERT W.A. THIELE, ESQ.  
COUNTY ATTORNEY